

**** E-filed October 31, 2011 ****

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U.S. District Court
Northern District of California, San Jose Division

11 West Marine Inc.

12 Plaintiff

13 vs.

14 Watercraft Superstore Inc.

15 Defendant

Case No. 5:11-cv-04459-HRL

Stipulation and ~~Proposed~~ Order

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1 The parties in this case have reached a stipulation that they jointly request to be entered as an
 2 order of the Court. This stipulation to allow Defendant Watercraft Superstore Inc. ("Watercraft") to
 3 conduct limited venue discovery regarding Watercraft's motion to dismiss or, in the alternative,
 4 transfer venue, is entered into by and between Plaintiff West Marine Inc. ("West Marine") and
 5 Defendant through their counsel of record.

6 RECITALS

7 This Stipulation is entered into with reference to the following facts:

8 A. On August 11, 2011, West Marine filed its Complaint against Watercraft, in the
 9 Superior Court for the State of California, County of Santa Cruz.

10 B. On September 7, 2011, Watercraft filed its notice of removal, removing this case
 11 from the Superior Court for the State of California, County of Santa Cruz, to the United States
 12 District Court for the Northern District of California.

13 C. On September 14, 2011, Watercraft filed its motion to dismiss the Complaint or, in
 14 the alternative, transfer venue to the Middle District of Florida. The motion alleges that this Court
 15 has no personal jurisdiction over Watercraft and that, if the Complaint is not dismissed, the Middle
 16 District of Florida is a more convenient and appropriate venue and the case should, thus, be
 17 transferred. Watercraft's motion was originally set to be heard before this Court on October 25,
 18 2011, but has since been continued. The parties previously stipulated to extend the briefing schedule
 19 such that West Marine's opposition is due on or before December 14, 2011, and Watercraft's reply
 20 will be filed on or before December 21, 2011.

21 D. Counsel for Plaintiff and Defendant have met and conferred in writing and
 22 telephonically regarding an agreement by which Watercraft would be permitted to take limited venue
 23 discovery.

24 STIPULATION

25 Based upon the foregoing, the parties hereby stipulate, by and through their counsel of record,
 26 as follows:

27 1. Watercraft will serve interrogatories, requests for admission, and/or requests for
 28 production of documents on venue issues on or before ~~October 28~~ ^{November 2}, 2011.

2. All discovery discussed in this Stipulation will be limited to venue issues.

Date: October 26, 2011

Respectfully submitted,

Mount, Spelman & Fingerman, P.C.

/s/ Benjamin R. Lemke

Counsel for Watercraft Superstore Inc.

Date: October 26, 2011

Greenberg Traurig, LLP

/s/ Lisa McCurdy

Counsel for West Marine, Inc.

As the attorney electronically filing this document, I attest that each above signatory has concurred in this filing.

Date: October 26, 2011

Mount, Spelman & Fingerman, P.C.

/s/ Benjamin R. Lemke

Counsel for Watercraft Superstore Inc.

Pursuant to stipulation, it is so ordered.

Date: October 31, 2011


Honorabl Howard R. Lloyd

United States District Court Magistrate Judge

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